REMARKS

Applicants have carefully considered the Office Action of April 1, 2010 and the references cited therein. Applicants hereby request reexamination and reconsideration of the application.

Applicants have amended the specification to overcome the Examiner's objections to the abstract and the drawings.

Applicant has amended claims 1 and 10 to remove reference numbers therefrom, as requested by the Examiner and in a manner to overcome such objections. These amendments have not been made to distinguish over any reference of record and no narrowing of any corresponding equivalents to which the amended limitation(s) or claim(s) is/are entitled is intended by these amendments.

Claim Rejections – 35 USC 102(b)

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Eves et al., hereafter Eves US 2002/0169817. In setting forth the rejection, the Examiner has cited specific sections of Eves US 2002/0169817 which are alleged to disclose the limitation of the claims 1 and 10, as well as their respective dependent claims. After review of the portions of Eves US 2002/0169817, Applicants respectfully traverse the rejection as improper. Specifically, to anticipate a claim, a reference must teach every element of the claim (MPEP Section 2131). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).*

The Examiner has failed to indicate where Eves US 2002/0169817 discloses the limitation of "receiving a real-world description in the form of an instruction set of a markup language, the description including asset terms and effect terms", (claim 1, line 2-3). Such limitation is disclosed in great detail in the subject specification (page 5, line 1 - page 6, line 5; Fig. 3). The sections of Eves US2002/0169817 cited by the Examiner

do not expressly disclose the recited limitation. Indeed, a text search of the specification of the Eves US2002/0169817 indicates that the phrases "asset term" and "effect term", do not even occur therein. The fact that Eves US2002/0169817 discloses a real world description in the form of instruction set a markup language does not expressly teach, disclose or suggest the use of asset terms or effect terms within the description, or, as recited elsewhere in claim 1, the relationship by which an effect term is used to modify an asset. Nor has the Examiner indicated how such limitation is inherently described within the cited sections of Eves US2002/0169817 given the lack of an express teaching therein. A mere allegation that the cited sections of Eves US2002/0169817 teach such limitation, is insufficient to support a rejection of claims 1 and 10 under 35 USC §102(b). The alleged disclosure within Eves US 2002/0169817 must be enabling to properly anticipate the subject matter recited in applicants claims. A prior art reference must contain an enabling disclosure. MPEP 2121.01 states in relevant part: "[i]n determining that quantum of prior art disclosure which is necessary to declare an applicant's invention 'not novel' or 'anticipated' within section 102, the stated test is whether a reference contains an 'enabling disclosure'... ." *In re Hoeksema,* 399 F.2d 269, 158 USPQ 596 (CCPA 1968). The disclosure in an assertedly anticipating reference must provide an enabling disclosure of the desired subject matter; mere naming or description of the subject matter is insufficient, if it cannot be produced without undue experimentation. *Elan Pharm., Inc. v. **>Mayo Found. For Med. Educ. & Research<*, 346 F.3d 1051, 1054, 68 USPQ2d 1373, 1376 (Fed. Cir. 2003)."

If it is the Examiner's position that the real-world experiences created by the system disclosed in Eves US2002/0169817 are essentially "effects", there is still no teaching or disclosure of "effects terms" within the instruction set the markup language and, further still, no teaching or disclosure of "effects" which are capable of modifying assets, as recited in claim 1. Accordingly, applicants respectfully assert that claims 1 to 15 in their current form are not anticipated by Eves US 2002/0169817.

Notwithstanding the foregoing arguments, claims 1 and 10 have been amended. Specifically, claim 1 now recites "requesting assets identified by the asset terms and effects identified by the effect terms in the description" and "modifying at least one asset

identified by an asset term in the description according to at least one effect identified by an effect term in the description" (claim 1, lines 5-8). Claim 10, has been similarly amended (claim 10, lines 6-9). As noted previously, "effect terms" are constructs of the instruction set up a markup language which are different from "asset terms".

As noted previously, claim 1 recites a description that includes within it both asset terms and effect terms. These terms are used to request assets and effects, and *the effects modify the assets*. There is no user interaction in this process. The content of the description defines completely the output that is provided by specifying the asset terms and effects terms. As such, some terms defined by the description (the effects) are modifying other terms defined by the description (the assets), without any external input.

Figure 6 of the subject application shows an example of such a description, with asset term 200 and an effect term 202. In this embodiment, the effect term includes a location component, but the principle is that the assets 206 and 208 associated with the asset term 200 will be modified by the effect 210 (associated with the effect term 202). This system provides great flexibility in the provision of the augmentation to the end user, and does not require any user intervention. By allowing assets and effects to interact, a much greater variety of end results are possible, as any new asset or any new effect can be merged with a very large number of existing effects or assets to create a multiple new set of outputs.

If the Examiner is to establish anticipation based on the amended claims, the Examiner must firstly identify in Eves US2002/0169817 what is considered to be an "effect term" and "effect" as claimed in claim 1, and, secondly, identify where Eves US2002/0169817 discloses an "asset" being modified according to an "effect", as required by claim 1. Applicants have reviewed paragraph [0024] of Eves US2002/0169817 and respectfully submit such passage does not teach, disclose, or suggest an *asset modified by an effect*. In Eves US2002/0169817, the lighting device 14 simply receives the description <FOREST>, <SUMMER>, <EVENING> and these description terms are translated into colour tones and luminance levels for the lighting

device. There is no description of an asset being recalled, an effect being recalled and the asset being modified according to the effect.

Accordingly, in light of the foregoing amendments and remarks as set forth herein Applicants respectfully assert that claims 1 and 10, as amended, as well as their respective dependent claims, are also not anticipated by Eves US2002/0169817.

Applicants believe the claims are in allowable condition. A notice of allowance for this application is solicited earnestly. If after considering the above remarks and amendments, the Examiner is still not of the opinion that allowable subject matter is claimed, Applicants respectfully request a telephone interview with the Examiner and his/her respective Supervisory Patent Examiner to resolve any outstanding issues prior to issuance of any further office actions, or, if the Examiner has any further questions regarding this amendment, he is invited to call Applicants' attorney at the number listed below. The Examiner is hereby authorized to charge any fees or credit any balances under 37 CFR §1.17, and 1.16 to Deposit Account No. 03-2410 (Order No. 42551-110).

Respectfully submitted,

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